IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 19TH SEPTEMBER 2007 / 28TH BHADRA 1929

Bail Appl..No. 5665 of 2007()

CRIME NO.421/2007 OF KANNUR TOWN POLICE STATION

.....

: PETITIONER/3RD ACCUSED

T.V.VINAYAPAL,S/O.T.C.BHARATHAN,
45 YEARS,NISHIL NIVAS, CIVIL STATION, KANNUR.

BY ADV. SRI.E.R.VENKATESWARAN
SRI.R.SREEHARI

RESPONDENTS: COMPLAINANT

STATE OF KERALA REPRESENTED BY
S H O, KANNUR TOWN POLICE STATION THROUGH
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.5665 of 2007

Dated this the 19th day of September, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations in a crime registered under Section 419 & 420 I.P.C. The crux of the allegations against the petitioner is that he secured employment as Peon in an aided school, where payment of salary is made by the Government, on the false and fraudulent representation that he bears the name of his brother. All details of the brother were given, but the photograph affixed was that of the petitioner. This in short is the allegation. The crime has been registered. Investigation is in progress. The petitioner apprehends imminent arrest. The manager and Headmaster of the school have been arrayed as accused 1 & 2. They are already on bail, it is submitted.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He has already left his employment long back. The complaint has been filed by a person - husband of another member of the staff in the school, who was inimical to the 2nd accused, submits the learned counsel.

3. The learned Public Prosecutor opposes the application. The crime committed is gross and grave. It shkes the confidence of right thinking members of the polity in the system. There are no circumstances at all justifying the grant of anticipatory bail to the

petitioner, submits the learned Public Prosecutor . Notwithstanding the fact that accused 1 and 2 have already been granted bail (anticipatory bail, submits the learned counsel for the petitioner) anticipatory bail may not be granted to the petitioner, urges the learned Public Prosecutor .

4. I find merit in the opposition by the learned Public Prosecutor . I do not find any features in this case which would justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. Accused 1 and 2, Manager and Headmaster of the school do certainly stand on a different footing than the petitioner who had himself made the fraudulent misrepresentation. I am satisfied that this is an eminently fit case where the petitioner must follow the normal and ordinary course of appearing before the learned Magistrate having jurisdiction or the Investigating Officer and then seek bail in the regular and ordinary course.

5. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-